

PUBLIC HEARINGS

June 27, 2011

Public Hearings were held on Monday, **June 27, 2011**, at 8:13 p.m., in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, to solicit public comment, written or oral, on **Bills Numbered 11-05, 11-06, 11-07 and 11-08** regarding rezoning classifications, **Bill No. 11-09** adopting a Comprehensive Plan Update for Berkeley County, **Bill No. 11-10** to include a residency requirement for Sangaree Advisory Committee Members, **Bills Numbered 11-11, 11-12, 11-13, 11-14, 11-15 and 11-16** regarding Fiscal Year 2011-2011 Budgets within Berkeley County Government, **Bill No. 11-17** to provide for Supplemental Appropriations, **Bill No. 11-18** regarding the Franklin C. Fetter Family Health Clinic, LLC, and **Bill No. 11-19** authorizing a Fee-In-Lieu of Tax and Incentive Agreement between HLIT and HW Berkeley and Berkeley County.

Present: Mr. Daniel W. Davis, Supervisor, Chairman; Mr. Steve C. Davis, Council Member District No. 8, Vice Chairman; Mr. Phillip Farley, Council Member District No. 1; Mr. Timothy J. Callanan, Council Member District No. 2; Mr. Robert O. Call, Jr., Council Member District No. 3; Mrs. Cathy S. Davis, Council Member District No. 4; Mr. Dennis L. Fish, Council Member District No. 5; Mr. Jack H. Schurlock, Council Member District No. 6; Mr. Caldwell Pinckney, Jr., Council Member District No. 7; Ms. Nicole Scott Ewing, County Attorney; Ms. Elizabeth Cannon, Assistant County Attorney; and Ms. Catherine Windham, Acting Clerk of Council.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

Chairman Daniel Davis called the meeting to order and stated there were 15 Public Hearings being held to solicit public comment, written or oral.

There were no written comments on the bills for Public Hearing.

Bill No. 11-05, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, regarding **Colpar, Inc.**, requested by **T.B. Daniels**, located at the end of Diplomat Lane adjacent to I-26 near the College Park Road Interchange, Ladson, portion of **TMS #242-00-03-052** and **TMS #242-00-03-065, #242-00-03-066** and **#242-00-03-070**, (6.3 ±total acres), **from R-2, Manufactured Residential District to GC, General Commercial District**. Council District No. 5

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:15 p.m.

Bill No. 11-06, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, regarding **MeadWestvaco – Various Entities**, located in the general vicinity of Rose Drive and Turtle Pond Road along Highway 17A, Summerville,

TMS #221-00-00-137, #221-00-00-062, #221-00-00-083, #221-00-00-092, #221-00-00-087, #221-00-00-088, #221-00-00-089, #221-00-00-145, #221-16-01-019, #221-16-01-020, #221-16-01-022 and #221-16-01-038, (49 ± acres), from PDMU, Planned Development Mixed Use District and R-1, Single Family Residential District, to PDMU, Planned Development Mixed Use District. Council District No. 4

Chairman Daniel Davis asked if there were any public comments.

Chairman Daniel Davis: "Mr. Greenway."

Mr. Eric Greenway, Planning Director: "Mr. Chairman, I do need to make one clarification. There's some Tax Map Numbers here that have subsequently been annexed into the City of Summerville. The order that you all will sign if you adopt this tonight is correct, but it is not correct in the title this evening. We have it corrected on the official document that you all will sign later."

Chairman Daniel Davis: "Ok; thank you."

There being no further discussion of Bill No. 11-06, the Public Hearing was declared ended at 8:16 p.m.

Bill No. 11-07, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, regarding John Hopkins, 1531 Highway 52, Moncks Corner, TMS #162-00-01-042, (6.75 acres), from GC, General Commercial District, to R-1, Single Family Residential District. Council District No. 8

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:17 p.m.

Bill No. 11-08, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, regarding James Morrison, 1833 Highway 6, Pinopolis, portion of TMS #082-00-01-076, (0.22 acre), from F-1, Agricultural District, to GC, General Commercial District. Council District No. 7

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:17 p.m.

Bill No. 11-09, an ordinance adopting the 2010 Comprehensive Plan Update for the County of Berkeley, pursuant to the State of South Carolina Comprehensive Planning Enabling Act of 1994.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:18 p.m.

Bill No. 11-10, an **ordinance** to amend the language of Ordinance No. 79-03-08, as amended, by requiring a **residency requirement** of all **Sangaree Advisory Committee** Members.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:18 p.m.

Bill No. 11-11, an **ordinance** providing for the **fiscal year** beginning July 1, 2011 and ending June 30, 2012 for the **Devon Forest Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Devon Forest Special Tax District during the fiscal year.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:18 p.m.

Bill No. 11-12, an **ordinance** providing for the **fiscal year** beginning July 1, 2011 and ending June 30, 2012 for the **Pimlico Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Pimlico Special Tax District during the fiscal year.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:19 p.m.

Bill No. 11-13, an **ordinance** providing for the **fiscal year** beginning July 1, 2011 and ending June 30, 2012 for the **Sangaree Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Sangaree Special Tax District during the fiscal year.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:19 p.m.

Bill No. 11-14, an **ordinance** providing for the **fiscal year** beginning July 1, 2011 and ending June 30, 2012 for the **Tall Pines Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Tall Pines Special Tax District during the fiscal year.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:19 p.m.

Bill No. 11-15, an **ordinance** providing for the **fiscal year** beginning July 1, 2011 and ending June 30, 2012 for the operational budget of the **Berkeley County Special Fire Tax District** within the unincorporated portions of Berkeley County; and to provide for the expenditures of the revenues received by the Special Fire Tax District during the fiscal year.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:20 p.m.

Bill No. 11-16, an **ordinance** providing appropriations for the **fiscal year** beginning July 1, 2011 and ending June 30, 2012 for **Berkeley County**; to provide for levy of taxes on all taxable property in Berkeley County for all County purposes, to provide for the expenditures of said taxes and other revenues coming into the County for the fiscal year; and to amend the Code of Ordinances, Berkeley County, South Carolina, setting rates, charges and penalties for water and sewer and solid waste service by **Berkeley County Water and Sanitation**.

Chairman Daniel Davis asked if there were any public comments.

Mr. Terry Hardesty: "Yes, Mr. Supervisor; my name is Terry Hardesty. I live at 325 West Main Street here in Moncks Corner. At the last Republican Executive Committee Meeting, the committee passed a resolution unanimously requesting that any budget surplus that resulted from lower expenditures than expected or any revenues higher than expected or any combination thereof, that that be applied to the Local Options Sales Tax or the 29 percent credit. I listened very intently and curiously earlier about the discussion of water/sanitation, and I want to read you just a little bit from the handbook for County government in South Carolina, regarding user fees. This is state law defines a service user fee as a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee. Water/sewer rates are exactly that. This includes uniform service charges. In skipping some of the language and reading down here, *'Revenue derived from user fees must be applied to pay costs related to the provision of the service for which the fee was imposed. If the revenue generated is five percent or more of the county's prior fiscal year's total budget, the proceeds of the fee must be kept in a separate and segregated fund from the General Fund.'* I submit to you that water/sanitation is not a department of the County, and in fact, the Supreme Court has ruled in this state that solid waste is actually not an authority, but a utility. So, I think, state law is very clear on this. The \$10,000,000 that you transferred from water/sewer into the General Fund is a misuse of this, this money, and by not paying interest rate, you are actually harming the rate payers of Berkeley County water/sewer, because that money would be in an account earning interest for Berkeley County water/sewer, and over a period of time, rate payers have to make that up. Now, I don't want anybody to do this, but there have been people discussing seeking civil action against the County over that, and I think, you will lose it in court and spend a lot of money defending it. So, I urge you to pay that money back immediately."

Council Member Schurlknight: "Mr. Hardesty, if I could just add a couple things to that. I will get David Jennings in here, the attorney for Water and Sanitation, hopefully, next month, and ya'll can ask him those legal questions. And, the amount of money that was taken..."

Mr. Hardesty: "This is state law."

Council Member Schurlknight: "...taken – well, you're not an attorney; I'm not an attorney, and I want to hear from him, because we would move on his recommendations. We

had his blessing on that. I don't think the transfer was \$10,000,000 coming out of that. It was something less than 5,000,000 coming out of that."

Mr. Hardesty: "In either case, if you're paying it back with no interest, it is actually, it is taking money from water/sewer. You may eventually pay it back without interest, and it will be a net loss to water/sewer, because they will not have derived the revenue from interest. Now, let me say this about any attorney, because attorneys don't make law, and they don't adjudicate cases. Judges do that, so you know, Mr. Jennings may have an opinion, and that's fine, and I have no problem with that, but if it goes to court, I believe you'll lose it. Thank you."

Chairman Daniel Davis: "Thank you."

Council Member Schurlknight: "Thank you."

Chairman Daniel Davis: "Anyone else?"

There being no further discussion of Bill No. 11-16, the Public Hearing was declared ended at 8:24 p.m.

Bill No. 11-17, an **ordinance** to amend Ordinance No. 10-07-20 adopted July 26, 2010, to provide for **supplemental appropriations** and allocations thereof within the 2010-2011 budget for **Berkeley County**; and other matters relating thereto.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:24 p.m.

Bill No. 11-18, an ordinance authorizing an extension of the time period for **Franklin C. Fetter Family Health Clinic, LLC**, to commence construction on two (2) acres of land located in Cross, South Carolina, identified as **TMS #041-00-04-061**, and authorizing the County Supervisor to execute the necessary documents to effectuate such extension.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:25 p.m.

Bill No. 11-19, an **ordinance** authorizing (1) the execution and delivery of (a) a second amended and restated Fee-in-Lieu of Tax and Incentive Agreement by and between Berkeley County, South Carolina (the "County") and **HLIT IV SC-1, LP**, and **HLIT IV SC-2, LP**, and (b) a second amended and Restated Fee-in-Lieu of Tax and Incentive Agreement by and between the County and **HW Berkeley Phase II-A, LLC**, **HW Berkeley Phase II-B, LLC**, and **HW Berkeley Phase II-C, LLC**, in connection with investment in the County; and (2) other matters relating to the foregoing.

Chairman Daniel Davis asked if there were any public comments. There being none, the Public Hearing was declared ended at 8:26 p.m.

S/Catherine Windham
Interim Clerk of County Council

July 25, 2011
Date Approved

AGENDA FOR PUBLIC HEARINGS BERKELEY COUNTY COUNCIL

BERKELEY COUNTY COUNCIL will hold Public Hearings on **Monday, June 27, 2011**, at **6:01 p. m.**, or as soon thereafter as may be heard following other Public Hearings, and immediately following any scheduled Committee meetings in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, S. C., to receive public comment, written or oral, regarding the following:

CALL TO ORDER

PUBLIC DISCUSSION

1. **Bill No. 11-05**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Colpar, Inc.**, requested by **T. B. Daniels**, located at the end of Diplomat Lane adjacent to I-26 near the College Park Road Interchange, Ladson, **Portion of TMS #242-00-03-052 & TMS #242-00-03-065, 066, -070** (6.3 +/- Total Acres), from **R-2, Manufactured Residential District to GC, General Commercial District**. Council District No. 5.

PUBLIC DISCUSSION

2. **Bill No. 11-06**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **MeadWestvaco-Various Entities**, located in the general vicinity of Rose Drive and Turtle Pond Road along Highway 17A, Summerville, **TMS #221-00-00-137, -062, -083, -092, -087, -088, -089, -145 & 221-16-01-019, -020, -022, -038** (49 +/- Acres) from **PDMU, Planned Development Mixed Use District & R-1, Single Family Residential District to PDMU, Planned Development Mixed Use District**. Council District No. 4.

PUBLIC DISCUSSION

3. **Bill No. 11-07**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **John Hopkins**, 1531 Highway 52, Moncks Corner, **TMS #162-00-01-042** (6.75 Acres) from **GC, General Commercial District to R-1, Single Family Residential District**. Council District No. 8.

PUBLIC DISCUSSION

4. **Bill No. 11-08**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **James Morrison**, 1833 Highway 6, Pinopolis, **Portion of TMS #082-00-01-076** (0.22 Acres) from **Flex-1, Agricultural District to GC, General Commercial District**. Council District No. 7.

PUBLIC DISCUSSION

5. **Bill No. 11-09**, an **ordinance** adopting the **2010 Comprehensive Plan update** for the County of Berkeley, pursuant to the State of South Carolina Comprehensive Planning Enabling Act of 1994.

PUBLIC DISCUSSION

6. **Bill No. 11-10**, an **ordinance** to amend the language of **Ordinance No. 79-3-08**, as amended, by requiring a **residency** requirement of all **Sangaree Advisory Committee Members**.

PUBLIC DISCUSSION

7. **Bill No. 11-11**, an **ordinance** providing for the fiscal year beginning **July 1, 2011, and ending June 30, 2012**, for the **Devon Forest Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Devon Forest Special Tax District during the fiscal year.

PUBLIC DISCUSSION

8. **Bill No. 11-12**, an **ordinance** providing for the fiscal year beginning **July 1, 2011, and ending June 30, 2012**, for the **Pimlico Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Pimlico Special Tax District during the fiscal year.

PUBLIC DISCUSSION

9. **Bill No. 11-13**, an **ordinance** providing for the fiscal year beginning **July 1, 2011, and ending June 30, 2012**, for the **Sangaree Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Sangaree Special Tax District during the fiscal year.

PUBLIC DISCUSSION

10. **Bill No. 11-14**, an **ordinance** providing for the fiscal year beginning **July 1, 2011, and ending June 30, 2012**, for the **Tall Pines Special Tax District** operational budget; and to provide for the expenditures of the revenues received by the Tall Pines Special Tax District during the fiscal year.

PUBLIC DISCUSSION

11. **Bill No. 11-15**, an **ordinance** providing for the fiscal year beginning **July 1, 2011, and ending June 30, 2012**, for the operational budget of the **Berkeley County Special Fire**

Tax District within the unincorporated portions of Berkeley County; and to provide for the expenditures of the revenues received by the Special Fire Tax District during the fiscal year.

PUBLIC DISCUSSION

12. **Bill No. 11-16**, an **ordinance** providing appropriations for the fiscal year beginning **July 1, 2011, and ending June 30, 2012**, for **Berkeley County**; to provide for levy of taxes on all taxable property in Berkeley County for all county purposes; to provide for the expenditures of said taxes and other revenues coming into the county for the fiscal year; and to amend the Code of Ordinances, Berkeley County, South Carolina, setting rates, charges and penalties for Water and Sewer and Solid Waste Service by **Berkeley County Water and Sanitation**.

PUBLIC DISCUSSION

13. **Bill No. 11-17**, an **ordinance** to **amend Ordinance No. 10-07-20** adopted July 26, 2010, to provide for **supplemental appropriations** and allocations thereof within the 2010-2011 budget for **Berkeley County**; and other matters relating thereto.

PUBLIC DISCUSSION

14. **Bill No. 11-18**, an **ordinance** authorizing an **extension of the time** period for **Franklin C. Fetter Family Health Clinic, LLC**, to commence construction on two (2) acres of land located in Cross, South Carolina, identified as **TMS #041-00-04-061**, and authorizing the county supervisor to execute the necessary documents to effectuate such extension.

PUBLIC DISCUSSION

15. **Bill No. 11-19**, an **ordinance** authorizing (1) the execution and delivery of (a) a Second Amended and Restated Fee-In-Lieu of Tax and Incentive Agreement by and between Berkeley County, South Carolina (the "county") and **HLIT IV SC-1, L.P.** and **HLIT IV SC-2, L.P.** and (b) a Second Amended and Restated Fee-In-Lieu of Tax and Incentive Agreement by and between the county and **HW BERKELEY PHASE II-A, LLC**, **HW BERKELEY PHASE II-B, LLC** and **HW BERKELEY PHASE II-C, LLC**, in connection with investment in the county; and (2) other matters relating to the foregoing.

June 22, 2011
S/Catherine R. Windham
Acting Clerk of County Council